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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,668	02/14/2006	Ansgar Behler	C 2682 PCT/US	4666
23657	7590	07/17/2007		
COGNIS CORPORATION PATENT DEPARTMENT 300 BROOKSIDE AVENUE AMBLER, PA 19002			EXAMINER MRUK, BRIAN P	
			ART UNIT 1751	PAPER NUMBER
			MAIL DATE 07/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/539,668

Applicant(s)

BEHLER ET AL.

Examiner

Brian P. Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office action is in response to Applicant's remarks filed May 10, 2007.  
Currently, claims 11-30 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office action, Paper No. 20061201.
3. The examiner acknowledges that applicant has submitted an additional copy of the original Oath in their response.
4. The rejection of claims 11-30 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Milstein et al, WO 97/42299, is withdrawn in view of applicant's remarks.
5. The rejection of claims 11-30 under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Schmid et al, US 2004/0136939, is withdrawn in view of applicant's remarks.
6. The rejection of claims 11-30 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Behler et al, DE 10122255, is maintained for the reasons of record.

7. The rejection of claims 11-30 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 12-22 of copending Application No. 10/476,593 is maintained for the reasons of record.

***Response to Arguments***

8. Applicant's arguments filed May 10, 2007 have been fully considered but they are not persuasive.

Applicant argues that their invention is directed toward a process for reducing the residual content of halo carbon compounds from an alkyl oligoglycoside carboxylic acid salt, and is not directed toward a process for manufacturing the oligoglycoside carboxylic acid salt. However, the examiner respectfully disagrees. Specifically, the examiner respectfully asserts that independent claim 11, as presently written, is directed toward a process of preparing a water containing composition comprising an alkyl or alkenyl oligoglycoside carboxylic acid salt with a residual content of halocarbon compounds.

Applicant further argues that Behler et al, DE 10122255, does not teach or suggest the molar ratios of alkali to halo carbon of 81:1 in Example 1 or 44:1 in Example 2. However, it is noted by the examiner that the features upon which applicant relies (i.e., molar ratio of alkali to halo carbon) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

It is further argued by applicant that Behler et al, DE 10122255, is directed toward a different process than the presently claimed invention. However, the examiner respectfully disagrees. Specifically, the examiner maintains that Behler et al clearly discloses a process for making an aqueous composition containing an alkyl or alkenyl oligoglycoside carboxylic acid salt with a residual content of halocarbon compounds, as required in the instant claims.

Applicant further argues that copending Application No. 10/476,593 is directed toward a different process than the presently claimed invention. However, the examiner respectfully disagrees. Specifically, the examiner maintains that copending Application No. 10/476,593 clearly claims a process for making an aqueous composition containing an alkyl or alkenyl oligoglycoside carboxylic acid salt with a residual content of halocarbon compounds, as required in the instant claims. Therefore, the examiner maintains that claims 11-30 are an obvious formulation of claims 12-22 of copending Application No. 10/476,593. Furthermore, the examiner notes that copending Application No. 10/476,593 has issued as U.S. Patent No. 7,241,875.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00AM-5:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*BPM*

Brian P Mruk  
July 16, 2007

*Brian P. Mruk*

Brian P Mruk  
Primary Examiner  
Art Unit 1751